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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/609,777	07/05/2000	Bertram V. Burke	EPC-25C	4111

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Leo Stanger
P O Box 1455
382 Sprigfield Avenue
Summit, NJ 07901

EXAMINER

OUELLETTE, JONATHAN P

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 01/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/609,777

Applicant(s)

BURKE, BERTRAM V.

Examiner

Jonathan Ouellette

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15,17-19,21 and 31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15,17-19,21 and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8. 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The title objection is withdrawn due to the persuasiveness of applicant's remarks.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. The rejection of Claims 1-12 under 35 U.S.C. 112, second paragraph, is withdrawn due to applicant's amendment.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

5. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).
6. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).
7. Claims 1-15, 17-19, 21 and 31 are rejected under the judicially created doctrine of double patenting over claims 1, 1, 3-12, 13, 13, 17-19, 21, and 30 (respectively) of U. S. Patent No. 6,088,682 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.
8. The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: a system/method for collecting and allocating excess funds from a point of sale transaction.
9. Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3629

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-15, 17-19, 21 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winn-Dixie ("Winn-Dixie and the Salvation Army Team Up to Fight Hunger Across the Sunbelt," PR Newswire, January 19, 1989) in view of Fukatsu (US 5,302,811).
12. As per independent Claims 1, 13, and 31, Winn-Dixie discloses a system (in a computer system, a POS operating method) comprising: an entry station (remote input) for entering an amount corresponding to a sum being offered in a transaction; a calculating device in the remote input for recording an excess from amounts in the transaction; a processor remote from said entry station and responsive to said input for applying at least a part of the excess to an account on the basis of said identifier; and said account or accounts being identified independent of data in the remote input ("Winn-Dixie and the Salvation Army Team Up to Fight Hunger Across the Sunbelt," PR Newswire, January 19, 1989).
13. Winn-Dixie fails to expressly disclose wherein said entry station including a card reader or a keyboard for receiving an identifier that identifies a transactor in the transaction.
14. However, Fukatsu teaches wherein said entry station including a card reader or a keyboard for receiving an identifier that identifies a transactor in the transaction (Abstract, Fig 2, Fig 19, Fig 20A-20B, C2 L35-49, C3 L49-66, Claim 2).
15. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included wherein said entry station including a card reader or

a keyboard for receiving an identifier that identifies a transactor in the transaction, as disclosed by Fukatsu in the system disclosed by Winn-Dixie, for the advantage of providing a donation system with the ability to track the customers donations and preferences through the use of customer identification cards.

16. As per Claims 2 and 15, Winn-Dixie and Fukatsu disclose wherein applying means includes apportioning means for apportioning at least part of the excess to one or more predetermined accounts (determined by the card identifier).
17. As per Claim 3, Winn-Dixie and Fukatsu disclose wherein said remote input means includes a display for displaying the excess and remains.
18. As per Claim 4, Winn-Dixie and Fukatsu disclose wherein printout means prints out the status one or more accounts.
19. As per Claims 5 and 17, Winn-Dixie and Fukatsu disclose wherein said identifier entering means includes means for entering changes in the apportionment.
20. As per Claims 6 and 18, Winn-Dixie and Fukatsu disclose wherein said apportioning means includes means for allocating a portion of the excess to charity donee accounts with each apportionment.
21. As per Claims 7 and 19, Winn-Dixie and Fukatsu disclose wherein said apportioning means includes means for transferring the portion of the excess for the charity donee account directly to the charity donee with each apportionment.
22. As per Claim 8, Winn-Dixie and Fukatsu fail to expressly disclose wherein said apportionment means includes: charity storage means for storing names of a plurality of qualified charities; bank storage means for storing names of a number of banks; accounts

storage means for storing numbers of client accounts; entry means for entering the names of charities and banks so as to establish an entered name for each entry of a name; comparison means responsive to said storage means and said entry means for comparing each entered name with a stored name to determine if the entered name matches a stored name; assignment means responsive to said comparison means for assigning a charity or a bank to an account when the charity or the bank has been entered; recording means responsive to said account storage means for recording money entries into one or more said accounts; and allocating means responsive to said account storage means for registering an allocation of parts of monies recorded in one or more accounts among the charities and banks entered for that account.

23. However, Winn-Dixie does disclose wherein the Salvation Army will be responsible for identifying the neighborhood of the greatest need and distributing the charitable donations ("Winn-Dixie and the Salvation Army Team Up to Fight Hunger Across the Sunbelt," PR Newswire, January 19, 1989).
24. Official notice is given that automated methods of tracking charitable funds (donations and distribution) were well known at the time the invention was made. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include wherein said apportionment means includes: charity storage means for storing names of a plurality of qualified charities; bank storage means for storing names of a number of banks; accounts storage means for storing numbers of client accounts; entry means for entering the names of charities and banks so as to establish an entered name for each entry of a name; comparison means responsive to said storage means and

Art Unit: 3629

said entry means for comparing each entered name with a stored name to determine if the entered name matches a stored name; assignment means responsive to said comparison means for assigning a charity or a bank to an account when the charity or the bank has been entered; recording means responsive to said account storage means for recording money entries into said accounts; and allocating means responsive to said account storage means for registering an allocation of parts of monies recorded in accounts among the charities and banks entered for that account , as disclosed by Fukatsu in the system disclosed by Winn-Dixie, for the advantage of providing a donation system with the ability to track the charitable donations and distribution of said donations.

25. As per Claim 9, Winn-Dixie and Fukatsu disclose wherein said identifier means includes receiving means for receiving a card having data including the account.
26. As per Claims 10 and 21, Winn-Dixie and Fukatsu disclose wherein said apportioning means includes a central processor remote from the entry means for receiving data from the (card identifier) entry means.
27. As per Claim 11, Winn-Dixie and Fukatsu disclose printout means coupled to said entry means, said card entering means, and said applying means for printing out the amount or amounts entered and applied.
28. As per Claim 12, Winn-Dixie and Fukatsu disclose wherein the card identifies the relationship of apportioning among an account or accounts independent of the data in the entry means.
29. As per Claim 14, Winn-Dixie and Fukatsu disclose wherein said applying step returning any remains from the excess, after applying.

• Art Unit: 3629

Response to Arguments

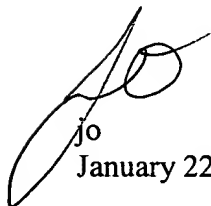
30. Applicant's arguments with respect to claims 1-15, 17-19, 21 and 31, filed on 11/13/2003, have been considered but are moot in view of the new ground(s) of rejection.

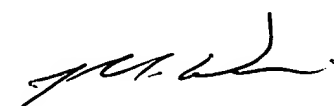
Conclusion

31. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (703) 605-0662. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.

32. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-3597 for After Final communications.

33. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-5484.


JO
January 22, 2004


JOHN G. WEISS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600